

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

JOHN MINUTILLO,

Plaintiff,

ANSWER

08 CV 7118 (PAC)

- against -

THE CITY OF NEW YORK,

Defendant.

-----x

Defendant, THE CITY OF NEW YORK, by its attorney MICHAEL CARDOZO, Corporation Counsel of the City of New York, answers the complaint as follows:

1. Admits the allegations set forth in paragraph "1" of the complaint.
2. Admits the allegations set forth in paragraph "2" of the complaint.
3. Admits the allegations set forth in paragraph "3" of the complaint.
4. Denies the allegations set forth in paragraph "4" of the complaint and respectfully refers all questions of law to the court.
5. Denies the allegations set forth in paragraph "5" of the complaint, except admits that plaintiff was an employee of the City of New York.
6. Denies the allegations set forth in paragraph "6" of the complaint.
7. Denies the allegations set forth in paragraph "7" of the complaint.
8. Denies the allegations set forth in paragraph "8" of the complaint.

AFFIRMATIVE DEFENSES

9. The plaintiff fails to state a claim upon which relief can be granted.
10. The injuries and/or damages alleged to have been sustained by the plaintiff were caused in whole or in part by the culpable conduct of said plaintiff.
11. The plaintiff assumed the risk of the injuries he sustained.
12. The plaintiff has failed to mitigate the injuries and/or damages alleged to have been sustained by plaintiff.
13. Where plaintiff seeks to recover damages pursuant to this action, any such costs or expenses from any collateral source shall reduce any judgment rendered in favor of plaintiff as against defendant.

WHEREFORE, defendant CITY OF NEW YORK demands judgment dismissing the complaint and awarding costs together with such other and further relief as the Court may deem just and proper.

Dated: New York, New York
August 27, 2008

By:

Cynthia Goldman
Cynthia Goldman (CG 0478)
Special Assistant Corporation Counsel
(212) 442-5855

MICHAEL A. CARDOZO
Corporation Counsel
City of New York
100 Church Street, Rm. 4-413(a)
New York, New York 10007

TO: Bernard D. Friedman, Esq.
 Friedman, James & Buchbaum LLP
 Attorneys for Plaintiff
 132 Nassau Street, Suite 900
 New York, NY 10038

STATE OF NEW YORK, COUNTY OF NEW YORK, SS.:

The undersigned, an attorney admitted to practice in the courts of New York State, shows: that she is employed in the office of the Corporation Counsel of the City of New York, and affirms this statement to be true under the penalties of perjury, pursuant to 28 U.S.C. § 1746:

that on the 27th day of August, 2008 she served the annexed answer upon:

Friedman, James & Buchsbaum LLP
132 Nassau Street, Suite 900
New York, NY 10038

being the addresses within the State theretofore designated by him/her for that purpose, by causing to be deposited a copy of the same, enclosed in a prepaid wrapper in a post office box situated at 100 Church Street in the Borough of Manhattan, City of New York, regularly maintained by the Government of the United States in said City.

Dated: New York, New York
August 27, 2008

Cynthia Goldman
Cynthia Goldman
Special Assistant Corporation Counsel

08 CV 7118 (PAC)

UNITED STATES DISTRICT COURT
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JOHN MINUTILLO,

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ANSWER

*MICHAEL A. CORDOZO
Corporation Counsel of the City of New
York*

*Attorney for the City of New York
100 Church Street
New York, N.Y. 10007*

*Of Counsel: Cynthia Goldman
Tel: (212) 442-5855*

Due and timely service is hereby admitted.

New York, N.Y. , 200 . . .

..... Esq.

Attorney for